

JOURNAL OF THE HOUSE

VETO SESSION

Second Regular Session, 95th GENERAL ASSEMBLY

WEDNESDAY, SEPTEMBER 15, 2010

Speaker Richard in the Chair.

Prayer by Msgr. Robert Kurwicki.

Almighty God, Creator of Heaven and Earth, we ask You to be present in our midst as we reassemble from the events of the summer. Watch over us as we debate and vote over those issues that will bring true progress to our state and its citizens.

May our minds and hearts be open and our eyes and voices be clear to understand fully the importance of our actions and reactions. We pray then that all our works of this day may bless the Lord.

We ask this in God's Holy Name. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Everest Trupiano Komo and Robert Alan Butner.

SPECIAL RECOGNITION

Gilbert Pritzel was introduced by Representative Riddle and recognized as a recipient of the French Legion Medal of Honor.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 4176 through House Resolution No. 4207

HOUSE RESOLUTION

Representative Tilley offered **House Resolution No. 1**, which was read.

HOUSE RESOLUTION NO. 1

BE IT RESOLVED, that the Chief Clerk of the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session, inform the Governor and the Senate that the House is duly convened and is now in session in the 2010 Constitutional Veto Session and ready for consideration of business.

On motion of Representative Tilley, **House Resolution No. 1** was adopted by the following vote:

AYES: 147

Allen	Atkins	Aull	Ayres	Biermann
Bivins	Black	Brandom	Bringer	Brown 30
Brown 50	Brown 149	Bruns	Burlison	Calloway
Carter	Casey	Chappelle-Nadal	Colona	Conway
Cooper	Corcoran	Cox	Cunningham	Curls
Davis	Day	Deeken	Denison	Dethrow
Dieckhaus	Diehl	Dixon	Dugger	Dusenberg
Emery	Englund	Ervin	Faith	Fallert
Fisher 125	Flanigan	Flook	Frame	Franz
Gatschenberger	Grill	Guernsey	Guest	Harris
Hobbs	Hodges	Holsman	Hoskins 80	Hoskins 121
Hummel	Icet	Jones 63	Jones 89	Jones 117
Kander	Keeney	Kingery	Kirkton	Koenig
Komo	Kratky	Kraus	Kuessner	Lair
Lampe	Largent	Leara	LeVota	Liese
Lipke	Loehner	McClanahan	McDonald	McGhee
McNary	McNeil	Meadows	Meiners	Molendorp
Munzlinger	Nance	Nasheed	Newman	Nieves
Nolte	Norr	Oxford	Parkinson	Parson
Pollock	Pratt	Quinn	Riddle	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Schieffer
Schlottach	Schoeller	Schoemehl	Schupp	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
Spreng	Still	Storch	Stream	Sutherland
Swinger	Thomson	Tilley	Todd	Tracy
Viebrock	Wallace	Walsh	Walton Gray	Wasson
Webb	Webber	Wells	Weter	Whitehead
Wilson 119	Wilson 130	Wright	Yaeger	Zerr
Zimmerman	Mr Speaker			

NOES: 005

Burnett	Hughes	Talboy	Vogt	Witte
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PRESENT: 000

ABSENT WITH LEAVE: 010

Dougherty	Funderburk	Grisamore	Kelly	LeBlanc
Low	Morris	Pace	Scharnhorst	Stevenson

VACANCIES: 001

MESSAGE FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted **SR 1**.

SENATE RESOLUTION NO. 1

BE IT RESOLVED by the Senate that the Secretary of Senate inform the House of Representatives that the Senate is duly convened and is now in session as provided by Article III, Section 32 of the Constitution and is ready for the consideration of its business.

MESSAGES FROM THE GOVERNOR

July 14, 2010

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **House Bill No. 1741** entitled:

"AN ACT"

To repeal section 351.340, RSMo, and to enact in lieu thereof one new section relating to board meetings of corporations.

I disapprove of **House Bill No. 1741**. My reasons for disapproval are as follows:

Under current law, a corporate board of directors may take action without a meeting if all members of the board consent in writing. Importantly, the written consent must set forth the action to be taken. **House Bill No. 1741** expands the means of communicating such consent to include electronic transmission. However, **House Bill No. 1741** also deletes the existing requirement that the directors' consent specifically set "forth the action so taken." The Model Business Corporations Act and the laws of other states require that the specific action be included in the consent. Indeed, the inclusion of such specificity is necessary to avoid ambiguity and confusion as to the scope and detail of the consent. Current law requires such specificity and its repeal cannot receive my approval.

In accordance with the above stated reasons for disapproval, I am returning **House Bill No. 1741** without my approval.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

July 14, 2010

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **Senate Committee Substitute for House Committee Substitute for House Bill No. 1831** entitled:

"AN ACT"

To amend chapter 177, RSMo, by adding thereto one new section relating to real property donated to school districts.

I disapprove of **Senate Committee Substitute for House Committee Substitute for House Bill No. 1831**. My reasons for disapproval are as follows:

School districts are recipients of real property donated by individuals, businesses and community organizations. These parcels are used for a variety of purposes including infrastructure expansion, athletic fields, or future district needs. While the donation of real property constitutes a generous gesture by the donor and an opportunity for a school district to advance needed improvements, subsequent circumstances may dictate a school district transfer the property out of its holdings. Under existing law, a school district desiring to convey real property – be it acquired by purchase or donation – must do so through a process designed to provide the school district fair market value for the property. And, relevant to this legislation, a school district is not permitted under current law to simply return donated property to the previous owner.

Senate Committee Substitute for House Committee Substitute for House Bill No. 1831 would create an exception for land acquired through donation by allowing a school district to transfer such property back to the previous owner under certain circumstances. This provision was drafted to address a specific parcel of land held by a particular school district. While the legislation would apparently satisfy the needs of that particular school district, the language is not limited to that school district or that parcel of land and could inflict unintended future hardship to other school districts in possession of donated real property.

Senate Committee Substitute for House Committee Substitute for House Bill No. 1831 is problematic in several respects:

The legislation precludes a school district from conveying donated real property until ten years have elapsed from the date of donation;

The legislation requires that a school district, prior to selling property acquired through donation, must first offer to return the property to the previous owner. However, the legislation does not account for improvements made to the real property by the school district or allow the school district to be compensated if the previous owner accepts the property back; and

The legislation requires the previous owner refuse to accept return of the property prior to the school board being authorized to sell the donated parcel. The bill contains no procedural mechanism for when the original donor cannot be found, is deceased, or is a defunct entity or organization. Moreover, the legislation fails to impose a time period during which the donor must decide to accept or decline the return of the real property. These oversights erect a potential bar to the school district's ability to sell unneeded property.

The purpose underlying this legislation to assist a specific school district transfer a particular parcel of property may be worthy. However, I cannot permit it to be accomplished at the risk of imposing future impediments to the other school districts of this state.

In accordance with the above stated reasons for disapproval, I am returning **Senate Committee Substitute for House Committee Substitute for House Bill No. 1831** without my approval.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

July 14, 2010

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903** entitled:

"AN ACT"

To repeal section 160.254, RSMo, and to enact in lieu thereof three new sections relating to funds established in the state treasury to receive federal funds, with an emergency clause.

I disapprove of **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903**. My reasons for disapproval are as follows:

Senate Committee Substitute for House Committee Substitute for House Bill No. 1903 creates two new accounts in the state treasury to receive federal funds under the American Recovery and Reinvestment Act of 2009. These new accounts would receive extension of the temporary increase in the Medicaid Federal Medical Assistance Percentage (FMAP) and moneys awarded to the state under the Race to the Top program. This expansion of funds in the state treasury is unnecessary and duplicative of legislation passed during the 2009 session. House Committee Substitute for Senate Committee Substitute for Senate Bill No. 313 passed during the First Regular Session of the 95th General Assembly created the Federal Budget Stabilization Fund and the Federal Stimulus Fund. These existing funds are the appropriate accounts to receive FMAP extension and Race to the Top funds.

In addition to **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903** needlessly creating duplicative funds in the state treasury, the legislation also presents mechanical challenges. Under the bill, the Joint Committee on Education must approve the distribution of Race to the Top funds. This intrusion by the legislative branch into the duties of the executive branch is inconsistent with Article IV, Section 28 of the Missouri Constitution. Moreover, it is anticipated that the United States Department of Education will announce the next round of Race to the Top awards in September, 2010. If Missouri is successful, adherence to the violative approval process contained in **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903** would unnecessarily delay the distribution of funds to the school districts of this state.

Finally, **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903** provides that moneys remaining in the Race to the Top Fund at the end of the biennium shall revert to the credit of the general revenue fund. Such a transfer would violate federal law and subject the State of Missouri to possible sanctions by the federal government.

In accordance with the above stated reasons for disapproval, I am returning **Senate Committee Substitute for House Committee Substitute for House Bill No. 1903** without my approval.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

June 17, 2010

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2007** entitled:

"AN ACT"

To appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, Department of Labor and Industrial Relations, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Section 7.840

I hereby veto \$295,287 Workers' Compensation Fund for three administrative law judges. The Division of Workers' Compensation is statutorily authorized a maximum of forty administrative law judges. Pursuant to Section 287.610.1, RSMo, the actual number of administrative law judges is determined through the appropriations process and "shall be based upon necessity..." Between 2005 and 2009, the division realized a 25% reduction in first reports of injury and a 28% decrease in the number of claims filed. As a result, the fiscal year 2010 budget eliminated five administrative law judge positions. My budget recommendations for fiscal year 2011 did not add any administrative law judge positions and, given the reduction in claims, a veto will not impact the department's ability to adjudicate workers' compensation cases.

Personal Services and/or Expense and Equipment by \$295,287 from \$9,321,650 to \$9,026,363 Workers' Compensation Fund.

From \$9,371,650 to \$9,076,363 Workers' Compensation Fund.

From \$9,376,650 to \$9,081,363 in total for the section.

On June 17, 2010 I approved said **Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2007** except for those items specifically vetoed and not approved.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

July 14, 2010

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **Senate Substitute for Senate Committee Substitute for House Bill No. 2317** entitled:

"AN ACT"

To amend chapter 8, RSMo, by adding thereto twelve new sections relating to state properties and the conveyance thereof.

I disapprove **Senate Substitute for Senate Committee Substitute for House Bill No. 2317**. My reasons for disapproval are as follows:

Senate Substitute for Senate Committee Substitute for House Bill No. 2317 authorizes several land conveyances. In addition, it requires the Commissioner of the Office of Administration provide each member of the General Assembly

with a key to the dome area of the state capitol. The well-founded concerns held by the Office of Administration, Missouri Department of Public Safety and Capitol Police over this provision have been repeated for years by multiple administrations. They range from inaccessibility to the dome area in the event of a medical emergency to the potential for security threats.

The land conveyances authorized in **Senate Substitute for Senate Committee Substitute for House Bill No. 2317** are also contained in Senate Committee Substitute for House Bill No. 2285. Both bills also include provisions relating to access to the dome area of the state capitol. However, only Senate Committee Substitute for House Bill No. 2285 includes a requirement for training on issues pertaining to secured areas of the capitol building. Broad access to the dome area is profoundly concerning and such access absent training and other safeguards is unacceptable on public safety grounds.

I disapprove **Senate Substitute for Senate Committee Substitute for House Bill No. 2317** with the knowledge that the land conveyances in that legislation were authorized on July 9, 2010, with my approval of Senate Committee Substitute for House Bill No. 2285.

In accordance with the above stated reasons for disapproval, I am returning **Senate Substitute for Senate Committee Substitute for House Bill No. 2317** without my approval.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

HOUSE BILLS VETOED FROM THE SECOND REGULAR SESSION

The Speaker read the following House Bills vetoed from the Second Regular Session:
HB 1741, SCS HCS HB 1831, and SCS HCS HB 1903.

Representative Icet moved that **SCS HCS HB 1903**, relating to the deposit of certain federal funds, be passed, the objections of the Governor thereto notwithstanding.

Which motion was defeated by the following vote:

AYES: 085

Allen	Ayres	Bivins	Brandom	Brown 30
Brown 149	Bruns	Burlison	Cooper	Cox
Cunningham	Davis	Day	Deeken	Denison
Dethrow	Dieckhaus	Diehl	Dixon	Dugger
Dusenberg	Emery	Ervin	Faith	Fisher 125
Flanigan	Flook	Franz	Gatschenberger	Grisamore
Guernsey	Guest	Hobbs	Hoskins 121	Icet
Jones 89	Jones 117	Keeney	Kingery	Koenig
Kraus	Lair	Largent	Leara	Lipke
Loehner	McGhee	McNary	Molendorp	Munzlinger
Nance	Nasheed	Nieves	Nolte	Parkinson
Parson	Pollock	Pratt	Riddle	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schlottach
Schoeller	Self	Silvey	Smith 14	Smith 150
Stream	Sutherland	Thomson	Tilley	Tracy

Viebrock	Wallace	Wasson	Wells	Weter
Wilson 119	Wilson 130	Wright	Zerr	Mr Speaker

NOES: 068

Atkins	Aull	Biermann	Black	Bringer
Brown 50	Burnett	Calloway	Carter	Casey
Chappelle-Nadal	Colona	Conway	Corcoran	Curls
Englund	Fallert	Frame	Grill	Harris
Hodges	Holsman	Hoskins 80	Hughes	Hummel
Jones 63	Kander	Kelly	Kirkton	Komo
Kratky	Kuessner	Lampe	LeVota	Liese
Low	McClanahan	McDonald	McNeil	Meadows
Meiners	Newman	Norr	Oxford	Pace
Quinn	Roorda	Scavuzzo	Schieffer	Schoemehl
Schupp	Shively	Skaggs	Spreng	Still
Storch	Swinger	Talboy	Todd	Vogt
Walsh	Walton Gray	Webb	Webber	Whitehead
Witte	Yaeger	Zimmerman		

PRESENT: 000

ABSENT WITH LEAVE: 009

Dougherty	Funderburk	LeBlanc	Morris	Rucker
Salva	Schad	Scharnhorst	Stevenson	

VACANCIES: 001

Speaker Pro Tem Pratt assumed the Chair.

The Speaker Pro Tem read the following House bills vetoed from the Second Regular Session: **CCS SCS HCS HB 2007** and **SS SCS HB 2317**.

Representative Tilley offered **House Resolution No. 2**, which was read.

HOUSE RESOLUTION NO. 2

BE IT RESOLVED by the House of Representatives, that the Chief Clerk of the House of Representatives inform the Senate that the House, having been duly convened as provided by Section 32, Article III of the Constitution, made no motions to override the Governor's vetoes on **HB 1741**, **SCS HCS HB 1831**, **CCS SCS HCS HB 2007** and **SS SCS HB 2317** when the bills were called by the Speaker.

On motion of Representative Tilley, **House Resolution No. 2** was adopted.

Speaker Richard resumed the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted **SR 3**.

SENATE RESOLUTION NO. 3

BE IT RESOLVED by the Senate that the Secretary of Senate inform the House of Representatives that the Senate, having been duly convened as provided by Article III, Section 32 of the Constitution, made no motion to override the Governor's veto of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 777 when the bill was so called by the President.

Speaker Pro Tem Pratt resumed the Chair.

Speaker Richard resumed the Chair.

Speaker Pro Tem Pratt resumed the Chair.

Representative Bringer led the House in the singing of "God Bless America".

The following member's presence was noted: Scharnhorst.

ADJOURNMENT

On motion of Representative Self, the Veto Session of the Ninety-fifth General Assembly, Second Regular Session, adjourned sine die pursuant to the Constitution.

RON RICHARD
Speaker of the House

D. ADAM CRUMBLISS
Chief Clerk of the House